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10/759,322	01/16/2004	Ross D. Olney	DP-310047	8317

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EXAMINER
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PAUL, DISLER

ART UNIT	PAPER NUMBER
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2615

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/759,322	<b>Applicant(s)</b> OLNEY ET AL.	
	<b>Examiner</b> Disler Paul	<b>Art Unit</b> 2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/9/05</u> . | 6) <input type="checkbox"/> Other: ____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2,4-6; 14-15, 17-19, 27-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Seto et al. (US 2002/0041692 A1).

Re claim 1, Seto et al. disclose of a method for setting operating parameters of an audio system based upon operator usage patterns (fig.3;6), comprising the steps of: monitoring audio related operator usage patterns of an audio system and controlling an audio source based upon the operator usage patterns (page 3[0035] line 6-10; page 3[0040] and page 5[0050-1]/the music is provided to driver based on his listening patterns").

Re claim 2, the method of claim 1, further including the step of: selecting the audio source based on operator listening preferences for a day of the week and a time of the day as determined from the operator usage patterns (fig.3; page 3[0040]; page 6[0059]).

Re claim 4, the method of claim 2, wherein the audio source is selected at power-up (page 5[0050] line 7-10/audio source analysis is turned).

Re claim 5, the method of claim 1, wherein the audio source includes a compact disk (CD) player (page 3[0036]/ CD player).

Re claim 6, the method of claim 1, wherein the audio source is an AM/FM tuner and further including the step of: tuning an antenna associated with the AM/FM tuner based on at least one of the operator usage patterns and a motor vehicle location when a radio signal is correlated with at least one of the operator usage patterns and the motor vehicle location.

Re claim 14, Seto et al. disclose of the audio system that sets operating parameters based upon operator usage patterns, comprising: a processor (fig.1 (3)); a memory subsystem coupled to the processor (fig.1 (3,5)), the memory subsystem storing code that when executed instructs the processor to perform the steps of (fig.1 (5)): monitoring audio related operator usage patterns of an audio system; and controlling an audio source based upon the operator usage patterns page 3[0035] line 6-10; page 3[0040] and page 5[0050-1]/the music is provided to driver based on his listening patterns").

Re claim 15 has been analyzed and rejected with respect to claim 2.

Re claims 17-19 have been analyzed and rejected with respect to claims 4-6 respectively.

Re claim 27, Seto et al. disclose of the audio system that sets operating parameters based upon operator usage patterns, comprising: a processor (fig.1 (3)); an audio source coupled to the processor; a memory subsystem coupled to the processor(fig.1 (3,5)), the memory subsystem storing code that when executed by the processor instructs the processor (fig.1 (5))to perform the steps of: monitoring audio related operator usage patterns of the audio system for a predetermined period of time; and controlling the audio source based upon the operator usage patterns monitored during the predetermined period of time ( fig.3, page 3[0035,0040] line 6-10; page 3[0040] and page 5[0050-1]; page 1[0008]/the music is provided to driver based on his listening patterns as or during the time the favorite analysis detect driver input conditions").

Re claim 28, the system of claim 27, wherein the code when executed instructs the processor to perform the additional step of: selecting the audio source based on operator listening preferences for

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a day of the week and a time of the day as determined from the operator usage patterns (fig.3; page 3[0040]; page 6[0059]).

Re claim 29, The system of claim 28, wherein the audio source is an AM/FM tuner and the code when executed instructs the processor to perform the additional step of: tuning the tuner to an appropriate channel based upon the operator usage patterns (see claims 3 rejections explanation).

Re claim 30, the system of claim 28, wherein the audio source is selected at power-up (page 5[0050] line 7-10/audio source analysis is turned).

Re claim 31, the system of claim 27, wherein the audio source includes at a compact disk (CD) player (page 3[0036]/ CD player).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 3,7-9; 16, 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seto et al. (US 2002/0041692 A1) and further in view of Berstis (US 6,198,996 B1).

Re claim 3, the method of claim 2, But, Seto et al. fail to disclose of the audio source is an AM/FM tuner and the step of controlling the audio source based upon the operator usage patterns includes the step of: tuning the AM/FM tuner to an appropriate channel based upon the operator usage patterns. But, Berstis disclose a system wherein the audio source is an AM/FM tuner and the step of controlling the audio source based upon the operator usage patterns includes the step of: tuning the AM/FM tuner to an appropriate channel based upon the operator usage patterns (fig.7; col.10 line 33-35) for the purpose of providing restricting access to users which do not possess the security level. Thus, taking the combined teaching of Seto et al. and Berstis as a whole, it would have been obvious for one of the ordinary skill in the art to modify Seto et al. by incorporating the audio source is an AM/FM tuner and the step of controlling the audio source based upon the operator usage patterns includes the step of: tuning the AM/FM tuner to an appropriate channel based upon the operator usage patterns for the purpose of providing restricting access to users which do not possess the security level.

Re claim 7, the method of claim 6, wherein the motor vehicle location is provided by a detecting vehicle detecting device (page

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2[0030]; fig.1[21]), But, Seto et al. fail to disclose of the specific in regard to the device being a global positioning system (GPS) receiver. However, Berstis disclose a system wherein the detecting unit being a global positioning system (GPS) receiver (col.8 line 10-11) for the purpose of ascertain the exact vehicle position via positioned satellites. Thus, taking the combined teaching of Seto et al. and Berstis as a whole, it would have been obvious for one of the ordinary skill in the art to modify Seto et al. by incorporating the vehicle detecting device being the specific of a global positioning system (GPS) receiver for purpose of for the purpose of ascertain the exact vehicle position via positioned satellites.

Re claim 8, the method of claim 1, But, Seto et al. fail to disclose of the further limitation including the steps of: determining a genre associated with audio provided by the audio source; and adjusting a tone setting of the audio based upon the genre and the operator usage patterns, wherein the operator usage patterns include an operator tone preference for the genre. But, Berstis disclose of a system wherein the determining a genre associated with audio provided by the audio source; and adjusting a tone setting of the audio based upon the genre and the operator usage patterns, wherein the operator usage patterns include an operator tone preference for the genre (col.10 line 10-20/ other quality settings) for the purpose of providing restricting access to users which do not possess the



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security level. Thus, taking the combined teaching of seto et al. and Berstis as a whole, it would have been obvious for one of the ordinary skill in the art to modify Seto et al. by incorporating the determining a genre associated with audio provided by the audio source; and adjusting a tone setting of the audio based upon the genre and the operator usage patterns, wherein the operator usage patterns include an operator tone preference for the genre for the purpose of providing restricting access to users which do not possess the security level.

Re claim 9, the method of claim 8, But, the combined teaching of seto et al. and Berstis as a whole, fail to disclose of the further including the step of: adjusting an equalization setting of the audio source based upon the genre and the operator usage patterns, wherein the operator usage patterns include an operator equalization preference for the genre. But, official notice is taken, that the concept of adjusting equalization setting is commonly known in the art, thus it would have been obvious for one of the ordinary skill in the art to modify seto et al. and Berstis as a whole, by incorporating the adjusting of equalization setting based on genre and usage pattern for the purpose of controlling the frequency characteristic of the audio system.

Re claims 16 has been analyzed and rejected with respect to claim 3.

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Re claims 20-22 have been analyzed and rejected with respect to claims 7-9 respectively.

5. Claim 10,23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seto et al. (US 2002/0041692 A1) and further in view of Maeda ("US 6,859,539 B1).

Re claim 10, the method of claim 1, further including the steps of: determining a speed of a motor vehicle (page 2[0032]), but, Seto et al. fail to disclose of the adjusting a volume of audio produced by the audio source based upon the speed and the operator usage patterns, wherein the operator usage patterns include an operator volume preference for the speed. However, Maeda disclose of a system wherein the adjusting a volume of audio produced by the audio source based upon the speed and the operator usage patterns, wherein the operator usage patterns include an operator volume preference for the speed (fig.11-12; col.2 line 55 & col.3 line 40/controlled volume based on speed and user preference input) for the purpose of producing natural sound for modified volume. Thus, taking the combined teaching of Seto et al. and now Maeda as a whole, it would have been obvious for one of the ordinary skill in the art to modify Seto by incorporating the adjusting a volume of audio produced by the audio source based upon the speed and the operator usage patterns, wherein the operator usage patterns include an operator volume preference for the speed for the purpose of producing natural sound for modified volume.

Re claim 23 has been analyzed and rejected with respect to claims 10 above.

6. Claims 11-12, 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seto et al. (US 2002/0041692 A1) and further in view of Hughes et al. (US 2005/0089177).

Re claim 11, the method of claim 1, But, Seto et al. fail to disclose of the further including the steps of: determining a position of a window of a motor vehicle; and adjusting a volume of audio produced by the audio source based upon the position of the window and the operator usage patterns, wherein the operator usage patterns include an operator volume preference for the position. But, Hughes et al. disclose a system wherein the determining a position of a window of a motor vehicle; and adjusting a volume of audio produced by the audio source based upon the position of the window and the operator usage patterns, wherein the operator usage patterns include an operator volume preference for the position (fig.3-5;page 2[0029]/sensor to determine window position) for the purpose of providing the user with the flexibility of adjusting the volume to a desired level based upon the actual window conditions. Thus, taking the combined teaching of Seto et al. and Hughes as a whole, it would

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have been obvious for one of the ordinary skill in the art to modify Seto et al. by incorporating the determining a position of a window of a motor vehicle; and adjusting a volume of audio produced by the audio source based upon the position of the window and the operator usage patterns, wherein the operator usage patterns include an operator volume preference for the position for the purpose of providing the user with the flexibility of adjusting the volume to a desired level based upon the actual window conditions.

Re claim 24 has been analyzed and rejected with respect to claim 11 above.

Re claim 12, the method of claim 1, But, Seto et al. fail to disclose of the further including the steps of: determining a location of a motor vehicle; and adjusting a volume of audio produced by the audio source based upon the location of the motor vehicle and the operator usage patterns, wherein the operator usage patterns include an operator volume preference for the location. But, Hughes et al. did disclose of a situation wherein many sensors including GPS are connected with user input unit for the user storage patterns (fig.5-7, page 2[0029]) for the purpose of providing the user with the flexibility of adjusting the volume to a desired level based upon the actual sensor conditions.

Thus, taking the combined teaching of Seto et al. and Hughes et al. as a whole, it would have been obvious for one of the ordinary skill in the art to modify seto et al. by incorporating the many sensors including GPS are connected with user input unit for the user storage patterns for the purpose of providing the user with the flexibility of adjusting the volume to a desired level based upon the actual sensor conditions.

While, the combined teaching of Seto et al. and Hughes et al. as a whole, disclose of the above, they fail to disclose of the additional sensor for determining the vehicle locations and adjusting the volume based on the vehicle location. However, Official notice is taken that the concept of having a sensor which determining the speaker locations is commonly known in the art, thus it would have been obvious for one of the ordinary skill in the to have modify Seto et al. and Hughes et al. as a whole, by incorporating such concept of determining speaker location for the purpose of providing the user with the flexibility of adjusting the volume to a desired level based upon the vehicle location.

Re claim 25 has been analyzed and rejected with respect to claim 112 above.

6. Claim 13,26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seto et al. (US 2002/0041692 A1) and further in view of Maeda ("US 6,859,539 B1) and Berstis (US 6,198,996 B1) and Hughes et al. (US 2005/0089177).

Re claim 13, the method of claim 1, wherein the audio related operator usage patterns include one of an operator preferred audio source based on a time of the day and a day of the week (seto,fig.3), But, Seto fail to disclose of the first operator preferred volume for audio provided by the audio source based on a speed of a motor vehicle. However, Maeda disclose of a system wherein the adjusting a volume of audio produced by the audio source based upon the speed and the operator usage patterns, wherein the operator usage patterns include an operator volume preference for the speed (fig.11-12; col.2 line 55 & col.3 line 40/controlled volume based on speed and user preference input) for the purpose of producing natural sound for modified volume. Thus, taking the combined teaching of Seto et al. and now Maeda as a whole, it would have been obvious for one of the ordinary skill in the art to modify Seto by incorporating the adjusting a volume of audio produced by the audio source based upon the speed and the operator usage patterns, wherein the operator usage

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patterns include an operator volume preference for the speed for the purpose of producing natural sound for modified volume.

While, the combined teaching of Seto et al. and Maeda as a whole, teach of the above, they fail to disclose of the second preferred operator volume for the audio based on a location of the motor vehicle.

But, Hughes et al. did disclose of a situation wherein many sensors including GPS are connected with user input unit for the user storage patterns (fig.5-7, page 2[0029]) for the purpose of providing the user with the flexibility of adjusting the volume to a desired level based upon the actual sensor conditions.

Thus, taking the combined teaching of Seto et al. and Maeda and Hughes et al. as a whole, it would have been obvious for one of the ordinary skill in the art to modify seto et al. by incorporating the many sensors including GPS are connected with user input unit for the user storage patterns for the purpose of providing the user with the flexibility of adjusting the volume to a desired level based upon the actual sensor conditions.

While, the combined teaching of Seto et al. and Maeda and Hughes et al. as a whole, disclose of the above, they fail to disclose of the

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additional sensor for determining the vehicle locations and adjusting the volume based on the vehicle location. However, Official notice is taken that the concept of having a sensor which determining the speaker locations is commonly known in the art, thus it would have been obvious for one of the ordinary skill in the to have modify Seto et al. and Maeda and Hughes et al. as a whole, by incorporating such concept of determining speaker location for the purpose of providing the user with the flexibility of adjusting the volume to a desired level based upon the vehicle location.

While, the combined teaching Seto et al. and Maeda and Hughes as a whole, fail to disclose of the third operator preferred volume for the audio based on a genre of the audio. But, Berstis disclose of a system wherein the one of the plurality of operators preferred volume for the audio based on a genre of the audio (col.10 line 10-20/ other quality settings) for the purpose of providing restricting access to users which do not possess the security level. Thus, taking the combined teaching of seto et al. and Berstis as a whole, it would have been obvious for one of the ordinary skill in the art to modify Seto et al. by incorporating the one of the plurality of operators preferred volume for the audio based on a genre of the audio for the purpose of providing restricting access to users which do not possess the security level, the fourth operator preferred volume for the audio based on a position of a window of the motor vehicle (Hughes, fig.3-7;



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page 4[0045]/ of the plurality of operators), an operator-preferred tone for the audio based on a genre of the audio (col.10 line 5-30).

But, the combined teaching of seto et al. and Maeda and Hughes and Berstis as a whole, fail to disclose of the further including the operator preferred equalization for the audio based on the genre of the audio. But, official notice is taken, that the concept of adjusting equalization setting is commonly known in the art, thus it would have been obvious for one of the ordinary skill in the art to modify seto et al. and Berstis as a whole, by incorporating the adjusting of equalization setting based on genre for the purpose of controlling the frequency characteristic of the audio system.

Re claim 26 have been analyzed and rejected with respect to claim 13 above.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Disler Paul whose telephone number is 571-270-1187. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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